

Message Text

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ACTION OES-07

INFO OCT-01 EUR-12 ISO-00 SSO-00 NSCE-00 CCO-00 PM-04

NSC-05 SP-02 SS-15 CIAE-00 INR-07 NSAE-00 INRE-00

L-03 EB-07 CG-00 DOTE-00 PRS-01 COME-00 TRSE-00

DLOS-09 /073 W

-----181737Z 001127 /43

Z 181714Z JUN 77 ZFF-4

FM AMEMBASSY OTTAWA

TO SECSTATE WASHDC FLASH 3860

C O N F I D E N T I A L SECTION 01 OF 02 OTTAWA 05302

FOR SECRETARY, MINK, HANSELL, AND VINE FROM ENDERS

E.O. 11652: GDS

TAGS: EFIS, CA

SUBJECT: NEW SALMON FISHERY PROPOSAL

1. AS RESULT OF YOUR PHONE INSTRUCTIONS, EXTAFF MINISTER JAMIESON AGREED LAST NIGHT TO SUSPEND IMPLEMENTATION OF CANADIAN ORDER-IN-COUNCIL CLOSING U.S. SHRIMP FISHERY UNTIL 1200 HOURS JUNE 20. AS A PRETEXT FOR THE DELAY (ALTHOUGH WE PROBABLY WILL NOT NEED TO FOLLOW THIS COURSE), JUDGE BELL AGREED TO INSTRUCT THE U.S. ATTORNEY TO AGREE TO A STAY OR REHEARING OF THE TROLLERS CHALLENGE TO U.S. FISHERIES REGULATION DENIED BY THE SAN FRANCISCO COURT OF APPEALS JUNE 17.

2. IMPLEMENTATION OF ORDER-IN-COUNCIL WOULD HAVE GRAVE CONSEQUENCES FOR BOTH CANADA AND U.S. INTERESTS: FISHING BOAT INCIDENT COULD OCCUR, BUT ABOVE ALL INTERIM FISHERIES AGREEMENT WOULD GO DOWN TUBES AND BOTH COUNTRIES WOULD END UP CLOSING THEIR FISHERIES TO EACH OTHER.

3. ALTHOUGH WE CAN'T BE SURE, BELIEVE THAT LOSS OF FACE BY CANADIAN FISHERIES MINISTER LEBLANC AFTER HIS FAILURE
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TO NEGOTIATE ACCOMMODATION WITH SECRETARY KREPS ACCOUNTS IN PART FOR DOOMS DAY TYPE MACHINE CANADIANS HAVE SET TICKING IN ORDER-IN-COUNCIL.

4. KEY DIFFERENCE BETWEEN CANADA AND U.S. IS THAT U.S. EXPERTS BELIEVE CANADA MAY GET AS MANY OR MORE TOTAL FISH THROUGH INCREASED ESCAPEMENTS AS THEY

WOULD HAVE IF THERE HAD BEEN NO DECREASE IN CANADIAN FISHERIES IN U.S. WATERS AS RESULT OF U.S. REGULATIONS. CANADIANS MAINTAIN ESCAPEMENTS UNPROVEN AND IRREVELANT TO FACT BALANCE OF AGREEMENT HAS BEEN CHANGED BY U.S. ACTION.

5. TO RESOLVE THE ARGUMENT, WE PROPOSE THAT CANADA AND U.S. AGREE ON A PROCESS FOR DETERMINING WHETHER A COMPENSATION IS DUE CANADA WHICH WOULD RECOGNIZE COST OF DISLOCATION CAUSED BY U.S. ACTIONS, AND ADMIT THAT ESCAPEMENT FISH FOR THIS PURPOSE ARE NOT AS VALUABLE AS FISH TAKEN IN U.S. WATERS. AT SAME TIME IT WOULD COMMIT CANADA TO RECOGNIZE THEY OWE US SOME OFFSET FOR ESCAPEMENT FISH. IF COMPENSATION IS DUE, IT WOULD BE MADE IN 1978 SALMON OR OTHER FISHERIES.

6. FOLLOWING PROPOSAL IS DRAFTED IN SUCH A WAY AS TO MAKE IT AS EASY AS POSSIBLE FOR HAWKS TO ACCEPT HERE, WITHOUT ACTUALLY AGREEING THAT AN IMBALANCE HAS BEEN CREATED UNTIL COMPUTATION CAN TAKE PLACE AT THE END OF THE SALMON SEASON.

7. IF YOU AGREE TO PUT THIS OFFER OR VARIANT TO JAMIESON I BELIEVE I SHOULD DO SO 24 HOURS BEFORE THE CANADIAN NEW DEADLINE OF 12 NOON MONDAY.

8. BEGIN TEXT:

A. THE UNITED STATES RECOGNIZES THAT UNITED STATES SALMON
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REGULATIONS IMPLEMENTED DURING THE 1977 SEASON HAS CAUSED A LOSS OF FISHING OPPORTUNITY TO CANADIAN SALMON FISHERS IN UNITED STATES WATERS. TWO COUNTRIES AGREE THAT ACTION MUST NOW BE TAKEN TO INSURE THAT BALANCE IS MAINTAINED AS INTENDED UNDER THE TERMS OF THE 1977 RECIPROCAL FISHERIES AGREEMENT.

B. THE UNITED STATES BELIEVES THAT CANADA IS ENTITLED TO INVOKE ARTICLE V, PARAGRAPH 2 OF THE 1977 RECIPROCAL FISHERIES AGREEMENT DURING THE PERIODS OF UNITED STATES CLOSURES.

C. THE TWO COUNTRIES WILL COOPERATE TO DETERMINE ADDITIONAL CORRECTIVE ACTION REQUIRED TO MAINTAIN BALANCE UNDER THE RECIPROCAL FISHERIES AGREEMENT. THIS DETERMINATION WILL BE MADE BY ASSESSING THE 1977 RUN AND COMPARING IT TO THE 1976 RUN. IT WILL INCLUDE:

-- A DETERMINATION OF THE ACTUAL FISH CAUGHT BY ALL U.S.

AND CANADIAN NATIONALS DURING THE 1977 RUN, AND THE AREA WHERE CAUGHT;

-- A DETERMINATION OF THE ECONOMIC COST OF RELOCATING FISHERIES TO RECOUP FISHING OPPORTUNITIES LOST AS A RESULT OF U.S. ACTION;
-- A DETERMINATION OF ESCAPEMENT LEVELS INTO BOTH U.S. AND CANADIAN RIVERS.

D. IT IS RECOGNIZED BY BOTH COUNTRIES THAT ADDITIONAL FISH AVAILABLE TO CANADIAN INSHORE FISHERIES AS RESULT OF

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ACTION OES-07

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Z 181714Z JUN 77 ZFF-4
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TO SECSTATE WASHDC FLASH 3861

C O N F I D E N T I A L SECTION 02 OF 02 OTTAWA 05302

INCREASED ESCAPEMENT LEVELS CAUSED BY U.S. REGULATIONS WILL BE CONSIDERED AS AN OFFSETTING FACTOR, BUT CANNOT FOR THIS PURPOSE BE CONSIDERED TO BE FULLY EQUIVALENT TO FISH TAKEN IN OFFSHORE FISHERIES.

E. IMBALANCES TO THE DETRIMENT OF CANADA CALCULATED ACCORDING TO POINT 3 WILL BE COMPENSATED FULLY, IN A MANNER TO BE AGREED BY THE TWO COUNTRIES, THROUGH ADJUSTMENT IN THE 1978 SALMON FISHERY OR IN OTHER 1978 FISHERIES IN U.S. OR CANADIAN WEST COAST WATERS.

F. THE ABOVE PROCEDURE IS ENTIRELY AD HOC, DESIGNED TO DEAL WITH A UNIQUE SITUATION. BOTH COUNTRIES AGREE THAT IT HAS NO EFFECT OF PRECEDENT.

G. IN PUBLIC, THE TWO COUNTRIES WILL SAY THAT THE UNITED STATES AGREES THAT ACTION IS REQUIRED TO INSURE THAT BALANCE IS MAINTAINED UNDER THE 1977 RECIPROCAL FISHERIES

AGREEMENT. THE UNITED STATES ASKED, AND CANADA AGREED,
TO SUSPEND THE ORDER-IN-COUNCIL CLOSING THE U.S. SHRIMP
FISHERY SO THAT THE TWO COUNTRIES COULD TAKE COOPERATIVE
ACTION TO THIS END. END TEXT. ENDERS

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